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# Register

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# EXECUTIVE ORDERS

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## Emergency Executive Order No. 162

### Providing for Assistance to Officials of Lake of the Woods County, Minnesota

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order:

WHEREAS, the Chief Deputy of Lake of the Woods County, acting in the absence of the Sheriff, has requested assistance in the search for two missing hunters, and;

WHEREAS, dense foliage and deep snow in the search area has proven to be particularly difficult to search by locally available ground and aerial assets:

NOW THEREFORE, I order:

1. The Adjutant General of Minnesota to order to active duty on or after 13 November 1977, in the service of the state, such elements of the military forces of the state as required and for such period of time necessary to perform a search of that portion of Lake of the Woods County wherein the hunters are missing.

2. Cost of subsistence, transportation and fuel, and pay and allowances of said individuals will be defrayed from the General Revenue of the state as provided for by Minn. Stat. § 192-49; subd. 1, § 192.51; and § 192.52.

This order shall be effective immediately and shall be in force until such date as elements of the military forces of the state are no longer required.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 13th day of November, 1977.



# RULES

## Department of Public Welfare Rules Governing Various Social Services

The following Department of Public Welfare Rules, published at State Register, Vol. 1, No. 43, May 2, 1977, p. 1563, are adopted and are identical in every respect to their proposed form, with the following amendments:

### DPW-200 Adoption.

#### A. 2. Definitions

A. 2. o. Subsidized adoption: An adoptive placement in which a contract provides that financial reimbursements will be made to the adoptive parents with financial needs for a child who has special needs.

A. 2. p. Suitability study: The pre-adoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational and health needs of a particular child.

#### B. Legally Freeing the Child for Adoption.

B. 3. All surrenders and consents to adoption (except those given by the Commissioner, his agent or a licensed child-placing agency) shall be executed before two competent witnesses and an agency representative, and shall be filed in court prior to the date of the hearing. However, consents to an adoption by the child's parent when that parent is either a co-petitioner in the adoption proceedings or does not have custody of the child need not be executed before an agency representative, but only before two competent witnesses. Consents obtained in another state may be executed according to either Minnesota law or applicable laws of the other state.

#### C. Services for Children Freed for Adoption

C. 1. State Adoption Exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the Commissioner. This provision shall not apply to the licensed child placing agencies, Hennepin, Ramsey, or St. Louis Counties, whose use of the Exchange is optional.

C. 1. a. The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, racial or religious heritages, [[physical or]] and health, social, and educational needs.

C. 2. a. (1) The child has special needs (physical~~[[,]]~~ and mental ~~[[or emotional]]~~ health, education or social) which the foster family will be able to adequately meet.

C. 3. a. (2) The child's social worker shall provide the adoptive parents with a written genetic and ~~[[medical]]~~ health history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

C. 4. Subsidized Adoptions. Subsidized adoption is available through the local social service agency for a child under state guardianship who is not readily adoptable because of special needs (due to age, race, physical, mental, or emotional conditions ~~[[ ]]~~), his membership in a sibling group, ~~[[, or]]~~ and whose prospective family is unable to adopt him due to financial limitations.

C. 4. b. The amount of a ~~[[medical]]~~ health subsidy shall include the estimated cost for medical and health care, treatment and/or therapy.

C. 4. c. (4) The contract shall be reviewed annually by the subsidizing county welfare or human service board to determine whether significant changes have occurred in the needs of the child or the financial resources of the parents which require amendment of the contract.

#### E. Services to Families Applying for Adoption

E. 2. a. The applicant must be primarily motivated to meet the child's needs, emotionally mature with healthy interpersonal relationships, in good physical and mental health, and able to adequately support and parent a child in ~~[[an]]~~ a healthy and emotionally secure environment.

E. 3. The local social service agency is responsible for determining the suitability of adoptive parents whom it has accepted for service.

E. 3. b. (2) Grievances arising out of adverse suitability studies are not subject to further administrative review pursuant to Minnesota Statute, Chapter 15, or Minnesota Statute 256.045.

**KEY:** Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are **underlined and boldfaced**, while deletions from proposed rules are printed within [[double brackets]].

## RULES

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### DPW-213 Information and Referral Services.

#### B. Local Social Service Agency Standards of Service

B. 5. Information and referral service shall include the offering of the following services:

B. 5. c. Follow-up on at least a sample of referrals.

### DPW-214 Legal Services.

#### B. Standards of Service

B. 2. The local social service agency, in the delivery of this service, may make available legal counsel for the following kinds of legal problems:

B. 2. h. Actions on behalf of clients challenging the laws, rules, regulations or policies of federal, state or local public welfare agencies.

### DPW-215 Money Management Services.

C. Money Management Service in the Use of Protective and Vendor Payments.

C. 9. In AFDC cases, the local social service agency shall recommend appointment of a guardian [[or other

legal representative]] or placement of children with a relative or in foster care if money management problems are not resolved after two years of protective/vendor payments.

### DPW-216 Residential Treatment Service.

#### B. Standards of Service

B. 2. The local social service agency shall base its selection of a residential facility on the facility's capacity to meet the client's individual needs. When there is more than one approved vendor who could meet the client's needs, [[the client is to be allowed to select the vendor of his choice.]] the local agency shall help the client to participate in the selection of the most appropriate facility.

B. 7. The local social service agency shall assure that provision is made to help the client, to the extent possible, to:

B. 7. c. Obtain regular [[medical]] health and dental evaluation, if [[indicated,]] needed, carry out any prescribed program of [[medical]] health care, and arrange for needed funding for such care.

B. 7. e. Move to an independent living arrangement or another facility, [[if indicated.]] when such a move is to occur.

# PROPOSED RULES

## Department of Administration

### Energy Conservation in Residential Buildings; and Amendments to ASHRAE Standard 90-75 Adopted by Reference in Rules Relating to Design and Evaluation Criteria for Energy Conservation in New Buildings, Additions, Remodeled Elements of Buildings and Standards for Certain Existing Public Buildings

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room CCI, Howard Johnsons Motor Lodge, 8401 Cedar Avenue, Bloomington, Minnesota, on January 5, 1978, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, State Hearing Examiners Office, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, 612/296-8118, either before the hearing or within 5 days or up to 20 days after the close of the hearing upon order of the hearing examiner.

A copy of proposed rules are attached. Additional copies will be available at the door on the date of the hearing or can now be obtained by writing to the Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101. The agency's authority to promulgate the proposed rules and amendments are contained in Minn. Stat. § 16.85 (1976) and Laws of 1977 § 116H.129, Subds. 1 and 2. A "statement of need" explaining why the agency feels the proposed rules and amendments are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Min. Stat. 10A.01, Subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules and amendments, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Richard L. Brubacher  
Commissioner of Administration

#### Rules as Proposed

Reader should note that the following are totally new rules.

**SBC 6201 Authorization.** These rules are promulgated pursuant to Laws of 1977 § 116H.129, Subd. 1 and provide for rules relating to energy conservation in residential buildings.

**6202 Enforcement.** Recommendations to attain compliance shall be made to the Legislature by the director of the Minnesota Energy Agency.

**6203 Purpose and Scope.** The purpose of these rules is to establish minimum energy efficiency standards for existing residential buildings and to provide guidelines for retrofitting existing residential structures.

In general, the rules address two areas: 1) the reduction of air infiltration as it relates to air leakage through the exterior envelope, and 2) the improvement of the thermal efficiency of the structure as it relates to the transfer of heat through the exterior envelope.

**6204 Definitions.** Current Average Residential Energy Costs. The average fuel costs for a particular period of time as certified and determined by the Director of the Minnesota Energy Agency and published in the State Register.

**Economic Feasibility.** Shall occur when the savings in energy procurement cost exceeds the cost of energy conserving items amortized over the subsequent 5 year period.

**Exterior Envelope.** The elements of a building which enclose heated or cooled spaces and through which heat may be transferred to or from the interior.

**Insulation.** Materials used primarily to reduce heat loss and gain through the exterior envelope.

**Positive Shut-Off.** A shut-off device which will produce a tight seal to inhibit the flow of air when a fireplace is not operating, such as glass doors.

**KEY:** Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are **underlined and boldfaced**, while deletions from proposed rules are printed within [[double brackets]].

# PROPOSED RULES

“R” Value. A measure of how much resistance a material has to heat flow. The higher the R value the more resistance a material has. For example, three inches of fiberglass is equivalent to an R value of 10.

Rim Joist. Portion of the exterior envelope between the masonry foundation of a heated crawl space or basement and the first above-ground floor.

Single Glazed. Windows with one sheet of glass separating the heated or cooled space from the exterior.

Utility Services. Electric power wires or conduit, telephone wires or conduit, fuel pipes, sewer pipes and coal chutes.

“U” Value. A common measure of the rate of heat flow through the elements of the exterior envelope. The lower the U-Value, the lower the rate of heat flow will be ( $U=1/R$ ).

Ventilation, Attic. Openings in the eaves, roof or walls of the attic areas to allow outside air circulation.

6205 Minimum Energy Efficiency Modifications. Modifications in the following minimum energy efficient items when economically feasible shall be required.

1. Caulk, gasket, weatherstrip, or otherwise seal accessible exterior joints around windows and door frames, between wall cavities and window or door frames, between wall and roof, between wall panels, at penetrations for utility services through walls, floors and roofs and all other openings in the exterior envelope.
2. Insulate all rim joist areas, where accessible from the interior.
3. Install an insulating jacket over domestic water heaters.
4. Install storm doors on all exterior doors opening directly into occupied living space.
5. Install storm windows on all exterior window units which are single glazed.
6. Provide fireplaces with a positive shut-off between inside and outside air.
7. Install attic insulation if existing insulation averages are less than those shown below as they correspond to type of heating fuel.

<i>Heating Fuel</i>	<i>Minimum Existing Insulation</i>
Natural Gas	4 inches
Fuel Oil	6 inches
Electric	6 inches
Propane	6 inches

## Proposed Amendments to ASHRAE Standard 90-75

ASHRAE Standard 90-75, page 28

Table 6.2  
HVAC SYSTEM Equipment  
Minimum EER (COP) - (Cooling)

Effective Date	Standard Rating Capacities	
	Under 65,000 Btu/h (19kW)	65,000 Btu/h(19kW) and Over
	EER(COP)	EER(COP)
Beginning January 1, 1977	6.1(1.8)	6.8(2.0)
Beginning January 1, 1978	7.0(2.1)	6.8(2.0)
Beginning January 1, 1980	7.0(2.1)	7.5(2.2)

Page 22, 5.2 Scope — add as a second paragraph.

**No enclosed structure or portion of an enclosed structure constructed after January 1, 1978 and used primarily as a commercial parking facility for three or more motor vehicles shall be heated. Incidental heating resulting from building exhaust air passing through a parking facility shall not be prohibited, provided that substantially all useful heat has previously been removed from the air.**

Page 34. 8.6 Electric energy determination

**Electrical service to individual dwelling units in buildings containing two or more units shall be separately metered, with individual metering readily accessible to the individual occupants.**

**EXCEPTION: Buildings intended for occupancy primarily by personw who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this section.**

## Higher Education Coordinating Board Financial Aids Division Area Vocational-Technical Institute Tuition Grant Program

### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat.

## PROPOSED RULES

§ 15.0412, subd. 4, in the 7th floor Conference Room, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota on January 9, 1978, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have the opportunity to participate concerning the adoption of the proposed new rules. Statements may be made orally and written materials may be submitted, whether or not an appearance is made at the hearings, by mail to Steve Mihalchick, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8112, either before, during, or within 5 working days (or for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner) after the closing of the public hearing.

### NOTICE

All persons have the right to be notified of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. All persons have the right to be informed of the date on which the hearing record has been submitted to the Attorney General by the Agency. If you desire to be so notified, you may do so by so indicating at the hearing or by written request sent to the Hearing Examiner prior to the close of the record.

Notice is hereby given that 25 days prior to the first hearing date, a Statement of Need and Summary of Evidence will be available for review at the Office of Hearing Examiners. Copies of this document will be available for review at the hearing.

Copies of the proposed new rules are now available, and one free copy may be obtained by writing the Higher Education Coordinating Board, 901 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Copies will be available at the hearing.

Statutory authority to adopt the newly proposed procedures relating to the Area Vocational-Technical Institute Tuition Grant Program is contained in Laws of 1977, ch. 447, § 11.

The proposed rules relating to the Area Vocational-Technical Institute Tuition Grant Program, if adopted, would provide definition of eligible institutions and students; specify method for determination of recipients; provide the basis for and definition of the allocation method; clarify the amount and nature of awards; and provide for institutional and agency accountability.

Please be advised that Minn. Stat., ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statutes provide certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Clyde R. Ingle  
Executive Director

### CHAPTER TEN: AREA VOCATIONAL-TECHNICAL INSTITUTE TUITION GRANT PROGRAM

**5 MCAR § 2.1001 Purpose.** The purpose of this chapter is to augment Laws of 1977, ch. 447, art. 5, § 11, to be codified as Minn. Stat. § 136A.236, establishing a state program of tuition grants for students in attendance at Minnesota area vocational-technical institutes by providing standards, criteria, rules, and regulations therefore.

**§ 2.1002 Definitions.** The following terms shall have the meaning hereinafter ascribed to them:

A. "Eligible institution" shall be any public post-secondary vocational-technical institute established pursuant to Minn. Stat. § 121.21, as amended.

B. "Eligible student" shall be any student:

1. who is granted admission to and enrolled in good-standing or accepted for enrollment in an eligible institution at the time of application to the tuition grant program;

2. who is under 21 years of age at the time of application to the tuition grant program;

3. who is under 21 years of age for some portion of the fiscal year during which the tuition grant will be utilized;

4. who qualifies for payment of resident tuition at the eligible institution (those qualifying for resident tuition through the interstate tuition reciprocity agreements are not eligible), and

**KEY:** Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are **underlined and boldfaced**, while deletions from proposed rules are printed within [[double brackets]].

## PROPOSED RULES

5. who is not receiving a Minnesota State Scholarship or Grant-in-Aid for the period of attendance for which the tuition grant has been awarded.

C. "Educational costs" shall include tuition and processing fees, room and board, books, and miscellaneous expenses as applicable for each educational program as approved by the Board in an annual budget survey of all eligible institutions.

D. "Educational program" shall be an approved State Board of Education course of study pursued by the applicant.

E. "ADM" shall be the projected average daily membership for each eligible institution as approved by the State Department of Education, Vocational-Technical Division, adjusted by actual figures, as available, for the fiscal year for which program funds are allocated.

F. "Application date" shall be the date on which the eligible student files an application for a tuition grant with the financial aid officer of the eligible institution of attendance.

G. "Financial aid officer" shall be the person responsible for the administration of financial aid programs at the eligible institution.

H. "Executive director" shall be the executive director of the Minnesota Higher Education Coordinating Board.

I. "Board" shall be the Minnesota Higher Education Coordinating Board.

J. "Fiscal year" shall be that period of time from July 1 to June 30.

### § 2.1003 Nature of tuition grants.

A. Tuition grants shall be awarded for the lesser of one year or the period approved by the State Board of Education for completion of the applicant's educational program. Re-application must be made if additional tuition grants are required for subsequent periods.

B. Tuition grants shall not be disbursed directly to the recipient but to the eligible institution attended by the recipient, resulting in a reduction of tuition charges.

C. The eligible institution shall have responsibility for accounting for all funds designated for each recipient attending that institution.

D. Tuition grants shall be awarded for the fiscal year

of disbursement only. For educational programs extending across fiscal years, a tuition grant shall be prorated to the fiscal year-end. Re-application shall be necessary to obtain a tuition grant for the remainder of the educational program. Subsequent grants shall be contingent upon availability of funds, continued demonstration of financial need, and continued eligibility.

E. Application for a tuition grant may be made preceding or during attendance in the applicant's educational program. Reduction of tuition caused by the receipt of a tuition grant shall begin with the first day of classes for the applicant's educational program for the applicant who applied prior to the first day of classes for the applicant's educational program. Reduction of tuition caused by the receipt of a tuition grant shall begin with the application date for an applicant who applied subsequent to the first day of classes for the applicant's educational program. Retroactive reduction of tuition shall not be granted.

F. Payment of tuition may be deferred during the application process. Applicants receiving tuition grants shall be responsible, upon notification of such grants, for all tuition which accrued during the application process and which is not subsidized by the grant. Applicants not receiving tuition grants may, upon notification of denial, promptly withdraw from the eligible institution and be forgiven all tuition which accrued during the application process. Applicants not receiving tuition grants who choose not to withdraw from the eligible institution shall be responsible for all tuition which accrued during the application process.

G. Recipients of tuition grants who subsequently receive payment of a Minnesota State Scholarship or Grant-in-Aid for the same period of attendance for which the tuition grant was awarded shall be responsible for reimbursing the eligible institution for all tuition subsidized through the tuition grant program.

H. Recipients of tuition grants who choose to change educational programs within the eligible institution need not re-apply but must be re-evaluated concerning continued financial need. Cessation of the tuition grant because of lack of financial need or adjustment of the amount of the tuition grant shall begin with the date of transfer to a different educational program within the eligible institution.

I. Recipients of tuition grants who choose to transfer to another eligible institution must re-apply if a tuition grant is desired. Subsequent grants shall be contingent upon availability of funds, continued demonstration of financial need, and continued eligibility.

J. Applicants who are denied a tuition grant and who

## PROPOSED RULES

have not begun a new educational program or have not transferred to another eligible institution may not re-apply during the same fiscal year except with the permission of the financial aid officer of the eligible institution.

### § 2.1004 Determination of financial need.

A. The determination of family contribution shall be made by a nationally recognized student financial assistance service utilizing uniform methodology as approved by the United States Office of Education or the Basic Grant needs analysis procedures subject to the review and approval of the Board.

B. Demonstrated financial need shall be that portion of educational costs remaining after the application of family contribution, as determined according to § 2.1004 (A), the Basic Education Opportunity Grant, and assistance not controlled by the eligible institution.

§ 2.1005 Amount of tuition grants. The amount of a tuition grant shall be based on the demonstrated financial need of the applicant as defined in 5 MCAR § 2.1004 but in no instance shall exceed 75 percent of the cost of tuition for the applicant's educational program for the period of the tuition grant. An applicant whose demonstrated financial need does not exceed 5 percent of the cost of tuition shall not receive a tuition grant.

§ 2.1006 Institution responsibility — selection and reporting.

A. Eligible students shall make application to the eligible institution of attendance. Recipients shall be selected by the eligible institution under the provisions of the rules and regulations.

B. Each eligible institution shall be required to solicit demographic, educational, and financial data from eligible students requesting tuition grants as specified by the Board prior to each fiscal year.

C. Annually, all eligible institutions shall make available upon request of the Board reports of all such data collected.

§ 2.1007 Allocation and disbursement of funds.

A. Funds shall be allocated to eligible institutions according to the following formula:

ADM divided by the total ADM for all eligible institu-

tions multiplied by the then-current appropriation as provided for by the Minnesota legislature.

B. Annually, no later than June 30, the Board shall notify each eligible institution of the amount of funds allocated for the next fiscal year according to the formula specified in 5 MCAR § 2.1007 (A).

C. No later than August 1, each eligible institution shall inform the Board of funds needed to meet commitments during the current quarter. The Board shall disburse such requested funds no later than August 15.

For the remaining three quarters of the fiscal year, each eligible institution shall notify the Board by the last working day of each quarter of funds needed to meet commitments during the next quarter. The Board shall disburse such requested funds within five working days of the first day of each quarter.

D. Periodically, at the request of the Board, each eligible institution shall inform the Board of projected utilization of allocated funds. Unneeded funds shall be released by the eligible institution and shall be available for reallocation according to the formula defined in 5 MCAR § 2.1007 (A) to eligible institutions requiring funds in excess of the original allocation for the fiscal year.

E. Each eligible institution shall be accountable, in accordance with existing state law, for any funds disbursed. Allocated funds shall be used only during the fiscal year of disbursement and disbursed, but unused, funds must be remitted to the Board within thirty days of the fiscal year-end.

F. Each eligible institution shall be responsible for refunds of unused tuition grants necessitated by the withdrawal of any students. The eligible institution may apply any refunded amounts to other eligible students or remit such funds to the Board under provisions of 5 MCAR § 2.1007.

§ 2.1008 Delegation of authority. The executive director is hereby delegated necessary authority and responsibility for administration of the Area Vocational-Technical Institute Tuition Grant Program in accordance with these rules, state law and applicable federal laws and regulations, including issuing public information, designing related forms, prescribing application procedures, prescribing terms and conditions and agreements with eligible institutions, and establishing such policies

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## PROPOSED RULES

and practices as the executive director may deem necessary for effective administration in accordance with the purposes and requirements of the Area Vocational-Technical Institute Tuition Grant Program.

### Department of Public Welfare State Financial Participation in County Welfare Costs of Administration

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on January 20, 1978, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8112, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

The State Financial Participation in County Welfare Costs Program, Rule 56, is designed to provide property tax relief by state financing of certain County Welfare Administrative Costs. The proposed amendments to Rule 56 provides for a revised formula in determining the earnings and equitable distribution of state administrative aid. A copy of the rule is included with this Notice of Hearing.

Copies of the proposed rule are now available and one free copy may be obtained by writing to Richard Neumann, Minnesota Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155, (612) 296-4832. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 256D.22. A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone number (612) 296-5615.

Edward J. Dirkswager, Jr.  
Commissioner

#### Rule as Proposed

DPW 56 State financial participation in county welfare administration cost.

[(a)] **A.** This rule governs State financial participation in County Welfare costs of administration as authorized by [Article XXI, Chapter 650, Minnesota Laws of 1973.] **Minn. Stat. § 256D.22.**

[(b)] **B.** The purposes of this rule are (1) to provide:

1. [a] A system of calculating state reimbursement for certain County Welfare Administrative costs, [(2)] **2. Property** [to provide property] tax relief by providing state financing for certain County Welfare Administrative costs.

[(c)] **C.** Subject to the provisions herein, the Department of Public Welfare shall reimburse counties on a quarterly basis up to 50 per cent of all salary expenses [approved by the Commissioner,] incurred and paid by the counties in providing financial assistance and social services in connection with all public assistance programs and for which no other payment or Federal reimbursement has been made. If the appropriation is insufficient to pay all approved claims the Commissioner of the Department of Public Welfare shall make a pro-rata reduction in payments. Such reimbursement may be available for salary expenses of employees of the county welfare agency who are permanent; probationary; provisional limited term-[:]; when such employee is filling an established job while the incumbent is on leave; and for intermittent or trainees, when such trainees are employed on a full time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period.

[(1)] **1.** No reimbursement shall be made for salary costs of [(aa)] **a. single** county welfare directors; [except to directors of multi county agencies organized in accordance

## PROPOSED RULES

with law;] [(bb)] b. fiscal personnel and their supporting clerical staff who spent 30 per cent or more of their time[-]involvement in the processing of public assistance claims and payments; [(cc)] c. emergency employees, trainees other than those defined above as eligible for reimbursement, consultants, Emergency Employment Act personnel and any other non-regularly assigned employees.

[(2)] 2. Reimbursement for salary expenses shall be limited to regular compensation not in excess of that paid similarly situated state employees; the employer's cost of hospitalization, medical and major medical health insurance, Social Security, Public Employees Retirement Association and Municipal Employees Retirement Association, life insurance, disability insurance, unemployment compensation and workman's compensation. No reimbursement shall be made for travel or any other reimbursable expenses including bonuses.

[(3)] 3. The Merit System Supervisor shall after consultation with appropriate state [civil services] personnel and appropriate personnel from other civil service systems, which have been approved by the Federal Civil Service Commission to cover county welfare personnel in Minnesota, develop comparability schedules between positions in all county welfare departments and classes established by the State [Civil Service] **Personnel** Department or its successor. In making such schedules the likeness of job duties and qualifications shall be considered.

[(aa)] a. Such comparability schedules shall apply to welfare personnel under the Minnesota Merit System, Hennepin County Personnel Department, St. Louis County Civil Service Department, **Ramsey County Civil Service** or under any civil service system approved in the future by the Federal Civil Service Commission to cover county welfare personnel in the state.

[(bb)] b. As new classes are established by the Minnesota Merit System, the Hennepin County Personnel Department, the St. Louis County Civil Service Department, **the Ramsey County Civil Service Department** or by any other approved civil service system for welfare personnel, the Merit System Supervisor shall determine the comparability of the new class to a state [civil service] **personnel** class and incorporate the new class into the comparability schedule. Comparability may be determined on an aggregate formula basis. In instances where the county welfare department is not covered by the Minnesota Merit System, it shall be the responsibility of the director of the county welfare agency requesting the new classification to notify the supervisor prior to the establishment of the new class.

[(cc)] c. The Merit System Supervisor shall conduct [each year] a review of any changes in state [civil service] **personnel** classifications and/or compensation plans **each time these schedules change** and make such changes in the comparability schedule as appropriate. In making the review, input shall be requested and used from state [civil service] **personnel** department personnel as well as from personnel of other concerned civil service system. The review shall be completed [by June 30 of each year] **within one month after the state personnel schedules change** and if needed, new schedules printed and distributed [no later than July 15] **within two months**.

[(dd)] d. Decisions of the Merit System Supervisor in developing the original comparability schedules and in making revisions to them shall be appealable to the Merit System Council under the provision of DPW Rule No. 108 (f) (1). The decision of the Merit System Council shall be final.

[(d)] The total amount of reimbursement to any county welfare agency for a quarter will be limited to 50% of the figure obtained by averaging the agency's expenses for salaries, as defined as reimburseable above, for the first quarter (January, February, and March) and the second quarter (April, May, and June) of 1973 plus 10 per cent, except as provided in (d) (3).]

[(1)] Each county welfare agency shall compute what their reimbursable expenses would have been had all their authorized positions been filled for the first and second quarter of 1973, taking into consideration all the reimbursable and non reimbursable salary items listed in the Rule and the comparability scheduled and average the first and second quarter totals. The resultant figure shall be submitted to the State Agency by January 1, 1973 along with the number of authorized positions and subject to future audit, will become a basis for determining the amount of state reimbursement in future quarters.]

[(2)] **D** Within 30 days after the end of each calendar quarter, each county welfare agency is required to submit figures showing the total number of employees whose salary is **reimbursable** [reimburseable] along with the total amount reimburseable. [If the reimburseable salary is in excess of the average of the figure submitted for January through March and April through June, 1973, periods plus 10 per cent and the approved complement is in excess of that approved as of June 30, 1973, the amount of the state's reimbursement to the agency, for the quarter in which such excess occurs, shall be reduced by an amount equal to 50 per cent of the amount of the excess caused by costs of

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## PROPOSED RULES

employees hired in addition to the base complement. The limitation contained in this section expires January 1, 1975.]

[(3) While reimbursement to a county welfare agency will be limited as indicated above exceptions will be made for agencies incorporating township system personnel employing food stamp quality control personnel or employing additional personnel approved by the State for reimbursement.]

[(c) The effective date of this Rule is January 1, 1974.]

### Department of Public Welfare Catastrophic Health Expense Protection Program

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on January 13, 1978, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8118, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

Proposed Rule 60 governs administration of the Catastrophic Health Expense Protection Program (CHEPP, CHEP Program) in Minnesota. The Catastrophic Health Expense Protection Program is designed to provide limited help to people faced with severe out-of-pocket expenses for health care which are not covered by insurance or other government programs of medical assistance. Provisions of the proposed rule cover persons regulated, civil rights protections, definition of terms, establishment and duration of CHEPP eligibility, and administration of benefits and payments.

Copies of the proposed rule are now available and one free copy may be obtained by writing to John Hansen,

CHEPP, Department of Public Welfare, Box 43170, St. Paul, Minnesota, 55164. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 62E.54, subd. 1. A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone number (612) 296-5615.

Edward J. Dirkswager, Jr.  
Commissioner

#### Rule as Proposed

**DPW 60 Catastrophic health expense protection.**

##### A. Introduction.

**1. Scope and purpose of rule.** This rule governs administration of the Catastrophic Health Expense Protection Program (CHEPP, CHEP Program) in Minnesota. It is issued pursuant to Minn. Stat. §§ 62E.54, subd. 1 (1976). It provides the basis for implementation of §§ 62E.51 to 62E.55.

**2. Persons regulated.** This rule is binding on the Department of Public Welfare, on all county welfare and human services boards (hereinafter called local welfare agencies), on all persons and organizations contracting to perform functions under the CHEPP act, on providers of health services who are paid or who request payment under the act, and on people who apply for or receive benefits under the act.

**3. Uniform implementation of the rule.** The Commissioner of Public Welfare shall issue handbooks and informational materials to local welfare agencies, to persons and organizations that contract to perform functions required under the CHEPP act, to providers of health services which may be paid for under the act, and

## PROPOSED RULES

to people who apply for or receive benefits under the act, so that the act and this rule are put into effect in an orderly and uniform way.

4. Civil rights protections. The CHEP Program shall be administered so as not to deny people who apply for or receive benefits their individual and civil rights. The program shall give due regard to the rights of its beneficiaries as to privacy of their personal medical records. No disclosure shall be made of such records or of personally identifiable data from them except as permitted by law and then only such pertinent data as is clearly required for proper administration of the program by those persons and organizations responsible for it.

5. Subordination of rule to state and federal laws. Any provision of this rule which is inconsistent with any State or Federal law applicable to the CHEP Program is superseded thereby.

B. Definitions. For the purposes of this rule, the terms defined in this section have the meanings given them.

1. "Eligible person" means any person who is a resident of Minnesota and who, while a resident of Minnesota, has been found by the commissioner to have incurred an obligation to pay:

a. qualified expenses for himself and any dependents in any 12 consecutive months exceeding:

(1) 40 percent of his household income up to \$15,000, plus 50 percent of his household income between \$15,000 and \$25,000, plus 60 percent of his household income in excess of \$25,000, or

(2) \$2,500, whichever is greater; or

b. qualified nursing home expenses for himself and any dependents in any 12 consecutive months exceeding 20 percent of his household income.

Where clearly indicated by the context, "eligible person" shall also mean the dependents of an eligible person as defined below.

2. "Resident of Minnesota" means a person who is presently residing in Minnesota, having there his principal and permanent abode, and having no intent to return to some other state to live upon completion of a course of medical care. In deciding whether an appli-

cant for CHEPP benefits is a resident of Minnesota, all important aspects of the applicant's situation shall be considered, and the decision shall be made on the preponderance of the evidence. In doubtful cases, the following forms of evidence of residence may be included in those examined:

a. The place of residence of the applicant's family members who would be eligible for CHEPP benefits;

b. The number of months that the applicant has lived in Minnesota, and, in the case of retired persons who maintain residences in two or more states, the proportion of each of the past two years which the applicant has spent in Minnesota;

c. The state in which the applicant and his spouse are:

(1) Registered to vote;

(2) Licensed to drive;

(3) Registering their car(s);

(4) Claiming a homestead for property tax relief;

(5) Employed;

(6) Doing their banking;

d. The state in which the applicant lived for a substantial period before retiring and establishing residences in two or more states.

3. "Qualified expense" means any charge incurred subsequent to July 1, 1977 for a health service which is included in the list of covered services described in Minn. Stat. 62E.06, subd. 1 (1976), and for which no third party is liable. Such qualified expenses shall include the usual and customary charges for the following services and articles when prescribed by a physician:

a. Hospital services;

b. Professional services for the diagnosis or treatment of injuries, illnesses or conditions, other than outpatient mental or dental, which are rendered by a physician or at his direction;

c. Drugs requiring a physician's prescription;

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## PROPOSED RULES

d. Services of a skilled nursing facility which meets the requirements for participation as such in the Medicare program or the Medical Assistance program, for not more than 120 days in an individual eligible person's year-long eligibility period, if the services would qualify as reimbursable services under Medicare, and if the services do not fall into the class of "qualified nursing home expenses" defined in paragraph B. 31 below, and if, in addition, the patient's attending physician certifies in writing that the services are not primarily of a custodial or residential nature;

(explanatory comment:

Skilled nursing facility services provided by a Medicare-eligible facility may be reimbursed by Medicare if all the following conditions are met:

°Admission to the facility occurred within 14 days after an inpatient hospital stay of at least 3 days, not counting the day of hospital discharge,

°Care in the skilled nursing facility is needed because of a condition which was treated during the above hospital stay,

°The medical doctor responsible for the patient's treatment certifies that the patient needs and actually receives skilled nursing or skilled rehabilitation services on a daily basis, and

°The facility's Utilization Review Committee or a Professional Standards Review Organization does not disapprove the stay.)

continuation of rule:

e. Services of a home health agency if the services would qualify as reimbursable services under Medicare;

(explanatory comment:

The requirements for Medicare reimbursement for home health agency services are as follows:

°The patient must need part-time skilled nursing care or physical therapy or speech therapy,

°A medical doctor must determine that the patient needs the services and must set up a plan for home health care,

°The patient must be confined to his home,

°The home health agency must be eligible to participate in the Medicare program, and

°The services provided must fall into one of the following categories:

+Part-time skilled nursing care,

+Physical therapy,

+Speech therapy,

°and also, if one of the above services is needed:

+Occupational therapy, home-health aides,

+Part-time services of and

+Medical social services,

+Medical supplies and non-durable equipment provided by the agency.)

continuation of rule:

f. Use of ionizing radiation or radioisotopes for therapeutic or diagnostic purposes;

g. Oxygen;

h. Anesthetics;

i. Prostheses other than dental, but including cataract lenses;

j. Rental or purchase, as appropriate, of durable medical equipment other than eyeglasses and hearing aids;

k. Diagnostic X-rays and laboratory tests;

l. Oral surgery for partially or completely unerupted impacted teeth, a tooth root without the extraction of the entire tooth, or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth;

m. Services of a physical therapist; and

n. Transportation provided by licensed ambulance service to the nearest facility qualified to treat a condition, if such ambulance transportation is medically necessary.

4. "Dependent" means a spouse, unmarried child under the age of 19 years, a child who is a student under the age of 25 and financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent, provided such spouse or child is not cur-

## PROPOSED RULES

rently eligible for benefits under the Medical Assistance program or the General Assistance Medical Care program. The term "child" as used here includes legally adopted children, and it also includes financially dependent step children, foster children, and children under the guardianship of the applicant or his spouse. Eligibility for benefits of children reaching age 19 or 25 shall end on the last day of the birthdate month, in the eligibility year.

5. "Household income" means the gross income of an eligible person and all his dependents 23 years of age or older for the calendar year preceding the year in which an application is filed for CHEPP benefits. A dependent's age, for the purposes of this paragraph, shall be his age on the last day of the calendar year preceding the year in which application is filed for CHEPP benefits. Income paid to the applicant or his spouse on behalf of children included in the application shall be considered the applicant's income rather than the children's unless an accounting must be made for its use to some person outside the applicant family; this interpretation of children's income applies in particular to Social Security survivors' benefits. Child support legally required to be paid to a custodial parent by an absent parent shall be considered income of the custodial parent if and only if the custodial parent is *not* entitled to claim the child(ren) as tax dependents. (Explanatory comment: This treatment of child support payments is based on the Minnesota Department of Revenue's interpretation of Minn. Stat. §290A.03, subd. 3. See paragraph #6. immediately below.)

6. "Gross income" means income as defined in Minn. Stat. §290A.03, subd. 3. Cash benefits paid to eligible persons in lieu of payments to providers of health services shall not be included in "gross income" as defined here, but payments made by the United States Veterans' Administration for "Aid and Attendance" shall be considered to be a part of "gross income" rather than medical benefits.

(explanatory comment:

The definition of "gross income" in Minn. Stat. §290A.03 is follows:

Subd. 3. "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1974, additions to federal adjusted gross income as provided in Minn. Stat., §290.01, subd. 20, Clause (a) (1), (a) (2), (a) (3), (a) (4), (5), and (a) (10), and all nontaxable income,

including but not limited to the amount of recognized net long term capital gains excluded from adjusted gross income, cash public assistance and relief, the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, and veterans' disability pensions), nontaxable interest received from the state or federal government or any instrumentality thereof, worker's compensation, unemployment benefits, nontaxable strike benefits, and the gross amount of "loss of time" insurance. In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. "Income does not include gifts from non-governmental sources, surplus food or other relief granted under §§ 273.012, subd. 2 or §§ 290A.01 to 290A.21.)

continuation of rule:

7. "Commissioner" means the commissioner of public welfare, or, as applicable, the commissioner's designated agent in the Department of Public Welfare, a local welfare agency, or a person or organization contracting to perform functions required for administration of the CHEP Program.

8. "Third party" means any person other than the eligible person or his dependents.

9. "CHEPP deductible" means the sum of qualified expenses which an applicant must have incurred an obligation to pay in order to become an eligible person, as defined in paragraph B. 1. above.

10. "Copayment" means the 10 percent share of a reasonable charge or qualified expense, in excess of a CHEPP deductible, for which an eligible person remains liable to a provider of health services after payment of the 90 percent share by the commissioner under the provisions of the CHEPP act and this rule.

11. "Adjustment" means a payment by or to the State of Minnesota intended to change the net amount of an earlier payment made by the CHEP Program.

12. "Private health care coverage" means any plan regulated by Minn. Stat. ch. 62A, 62C, 62D, 64A, or §§ 62E.01 to 62E.17. Private health care coverage also includes any self-insurance plan providing health care benefits.

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13. "Hospital services" means any and all reasonable and medically appropriate services provided on an inpatient or outpatient basis on the direction of a physician or under his supervision by a hospital which meets the requirements for reimbursement as such by the Medical Assistance program. Hospital services do *not* include outpatient mental or dental health services, drugs dispensed on an outpatient basis for consumption at some other location, home health services, outpatient oral surgery, prostheses for outpatient use, or durable medical equipment for use outside the hospital, to the extent that such services are *not* covered under the provisions of the CHEP Program. Ambulance services and other medical transportation are not hospital services, *per se*, unless they lead to an inpatient hospital admission and are chargeable as hospital services under the rules and procedures of the Minnesota Medical Assistance program.

14. "Physician" means a medical doctor or osteopath, or a dentist acting within the scope of CHEPP coverage of dental services, licensed in the state in which he practices and acting within the scope of his license. The term does not include podiatrists, chiropractors, optometrists, or psychologists.

15. "Physical therapist" means an individual who meets the requirements for enrollment as such in the Minnesota Medical Assistance Program.

16. "Home health agency" means a public or private agency which specializes in giving nursing and other therapeutic and rehabilitative services in patients' homes and which is eligible for enrollment as such in the Minnesota Medical Assistance Program.

17. "Illness" means disease, injury, or a condition involving bodily or mental disorder of any kind, including pregnancy and fertility, and also including the state of personal concern for maintenance of individual health.

18. "Nursing home" means an institution which is licensed as a nursing home by the state in which it is located. The term includes facilities which meet the standards of the Minnesota Medical Assistance Program for enrollment as skilled nursing facilities or as intermediate care facilities (I), but it excludes facilities (or beds, in the case of multi-level facilities) which are classified as intermediate care facilities (II) or as intermediate care facilities (Mental Retardation).

19. "Medically necessary" means reasonable and prudent according to commonly accepted standards of medical practice as applied to a particular case at a particular point in time in the light of such information

as is or could reasonably be available to the treating physician.

20. "Medical Assistance Program" means that program of medical assistance to the poor and needy established by Title XIX of the Federal Social Security Act and, in Minnesota, by Minnesota Statutes, chapter 256B.

21. "Medicare" means that program of payment for health services for the aged and disabled established by Title XVIII of the Federal Social Security Act.

2. "General Assistance Medical Care" (GAMC) means that program of medical assistance for the poor and needy established by Minn. Stat., ch. 256D. 256D.

23. "Health maintenance organization" (HMO) means an organization offering prepaid health services, as defined in Minn. Stat., ch. 62D.

24. "CHEPP beneficiary" means an eligible or formerly eligible person or his dependent, someone on whose behalf CHEPP benefits have been or may be paid.

25. "Provider" means a provider of health services to an applicant for CHEPP benefits or to a CHEPP beneficiary.

26. "Regular provider" means a provider of health services to a CHEPP applicant or beneficiary who (which) wishes to be reimbursed for such services directly by the CHEP Program.

27. "Usual and customary charge" means a provider's normal charge, in the absence of insurance or other plan of health coverage, for a service or supply, but not more than the prevailing charge in the state for a like service or supply.

28. "Reasonable charge" means the charge for a service or supply which would be allowable for payment under the Medical Assistance Program as administered by the Minnesota Department of Public Welfare, except that customary charge audits by provider may be omitted uniformly for practitioners and that determinations of the reasonableness of charges which require professional review may be contracted to a review organization.

29. "Review organization" means a professional standards review organization as defined in the Federal Social Security Act or a similar organization as defined in Minn. Stat., § 145.61.

30. "Out-of-pocket" means the personal liability of

## PROPOSED RULES

an applicant, eligible person, or a dependent of one of these. A charge or expense for a service covered by CHEPP must be an out-of-pocket expense for the applicant or eligible family. Except as provided below, this means that no third party is liable to pay it and no third party has been liable to pay it and has then paid it to or on behalf of the family. If part of an expense for a covered service is paid by a liable third party or is the liability of a third party, that part is not a qualified expense under the CHEP Program and may not be used to satisfy the CHEPP deductible and may not be reimbursed by CHEPP. However, expenses for covered services actually paid by liable health insurance companies may be considered eligible out-of-pocket expenses for the purpose of satisfying the CHEPP deductible to the extent that the applicant or one of his dependents actually paid or contributed toward the insurance premiums, the contributions were made during the deductible period, and the services for which the insurance payments were made were received during the deductible period.

31. "Qualified nursing home expense" means any per diem charge (as "per diem charge" is defined by the Minnesota Medical Assistance program) incurred subsequent to July 1, 1977, for nursing home services after 36 months of continuous care provided to a person less than 65 years of age in a licensed nursing home bed certified at the skilled nursing facility (SNF) or intermediate care facility "1" (ICF-1) level. Periods of inpatient hospital care and short periods of therapeutic leave from nursing home care which occur after the initial admission to nursing home care shall count as part of the 36 months.

32. "Subsequent to July 1, 1977" means on or after July 1, 1977.

33. "Residual spend-down amount" means any portion of the CHEPP deductible which for administrative convenience is arranged to be deducted from CHEPP payments after an applicant has been accepted as an eligible person.

34. "Catastrophic Health Expense Protection Program coverage 1 (CHEPP-1)" means the set of CHEPP benefits available to persons who have become eligible under the provisions of paragraph B. 1. a. above. This coverage is the regular and broad coverage of the CHEP Program. It makes no restrictions on benefits on account of age, except as regards defining who may be included in a single family group.

35. "Catastrophic Health Expense Protection Program coverage 2 (CHEPP-2)" means the coverage of some part of the routine *per diem* costs of nursing home care for persons less than 65 years of age who have been in a nursing home for at least 36 months and who have become eligible under the provisions of paragraph B. 1. b. above.

### C. Establishment and duration of CHEPP eligibility.

1. Where to apply. Applications for benefits from the Catastrophic Health Expense Protection Program shall be taken by the local welfare agency responsible for the county in which the applicant makes his home.

2. Who May Apply. Applications for CHEPP benefits may be made by a single adult person, by either spouse of a family, or by an individual's attorney, guardian, or personally designated representative, or by the administrator or court-appointed representative of a deceased individual's estate. A personally designated representative shall present written proof of his designation and shall not be an employee of or a contractor with any provider of medical services which has provided services to the applicant. No application may be made on behalf of a deceased person's estate unless the apparent heirs of the estate include the decedent's children, spouse, former spouse, or parents and these do not qualify to apply for CHEPP benefits because of age or relationship to the decedent. An applicant (that is, the person on whose behalf application is made) must be a resident of Minnesota at the time of application.

3. Delegation of authority. The director of each local welfare agency is designated as the commissioner's agent authorized to review and determine applicants' eligibility for CHEPP benefits. This authority may be further delegated to the supervisor of the administrative unit within each agency which is responsible for processing CHEPP applications.

4. Provision of information by local welfare agencies. Local welfare agencies shall answer questions from the public about the CHEP Program, using information and literature supplied by the commissioner. Local agencies shall explain the program's benefits and requirements to people who apply or who are eligible for benefits. Local agencies shall explain the state's privacy-protection law to people who apply for CHEPP benefits.

5. Filing and processing applications. Local welfare agencies shall maintain such records of CHEPP applica-

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## PROPOSED RULES

tions as may be required by this rule and by administrative procedures established by the commissioner. Application forms and records of applicants' income and expenses for health services shall be kept in the local welfare agency for at least as long as such records are required to be kept by the Medical Assistance Program. Local agencies shall provide copies of CHEPP applications, applicants' medical bills, and other documents submitted at application, to the Department of Public Welfare as required by the commissioner. Local agencies shall determine whether an applicant is eligible for CHEPP benefits within 30 days of receiving all information and documents needed to determine eligibility. When an applicant has been found eligible, the local agency shall take whatever action is necessary to establish the applicant family as an eligible case in the State computerized Welfare Information System (the Case Information System); this updating of the Case Information System shall be completed within 10 work days of determining the applicant's eligibility.

6. Consideration of alternative welfare programs. Local welfare agencies shall request from CHEPP applicants enough information to decide whether they can qualify for Medical Assistance, General Assistance Medical Care, or some other form of welfare medical assistance such as certification of need for care at the University Hospitals. Applicants entitled to benefits under such other welfare programs shall be considered ineligible for CHEPP benefits if such other benefits are clearly equal to or greater than those available under CHEPP. If an applicant becomes eligible for CHEPP in preference to some other welfare program to which he is entitled, justification of the selection shall be recorded in the case record.

7. Information and documents to be supplied by CHEPP applicants. Applicants for CHEPP benefits shall provide such information and documents as are needed to establish their eligibility for the program, including as applicable the following:

a. Application data:

- (1) Full names of family members included in the application;
- (2) Birthdates of all family members;
- (3) Current addresses of all family members included in the application;
- (4) The main address of the household one month before the date of the first service offered in satisfaction of the CHEPP deductible;
- (5) The Social security number of each family

member whose income would be relevant to determining the family's eligibility for CHEPP benefits;

(6) The amount of the family's household income in the previous year, including an itemization of all such income not reported on a State or Federal income tax return or on an application for the Minnesota Renter's Credit, Income-adjusted Homestead Tax Credit, or Senior Citizen's Property Tax Freeze Credit;

(7) The Health Insurance Claim Number of each Medicare-eligible member of the applicant family;

(8) The names of all private or public plans or programs of health coverage from which one or more family members are entitled to benefits, the addresses of such plans, the policy numbers or beneficiary identification numbers for each plan, the names of the family members covered by each plan, and the name of the plan group if necessary for claim filing;

(9) The names of all automobile insurance companies with which family members have no-fault medical coverages, the policy numbers, and the addresses of the companies;

(10) The names of any other third parties who are or may be liable for the cost of health services or health insurance for any family member, and current information about the status of any actions pending or contemplated for recovery of damages or benefits for health services;

(11) The Medical Assistance Program, General Assistance Medical Care, or CHEPP identification number of each family member who has been eligible for one of those programs within the two years before the current application for CHEPP;

(12) The telephone number of the family's main home and the telephone number at work of the employed head of household;

(13) The sex and marital status of all adult family members;

b. A signed warranty by the applicant that the information supplied is true and complete, to the best of his knowledge and ability to make it such;

c. A signed assignment of third party benefits to the extent of the State's payments on the eligible family's behalf; an assignment shall be signed by the competent family member for each separate set of entitlements; each assignment shall include an authorization to release pertinent medical information for purposes of collecting

## PROPOSED RULES

health plan and other third party benefits for health services;

d. A signed authorization from each family member, other than dependent children under age 23 years, for the commissioner to inspect tax returns and applications for tax credits submitted to the Minnesota Department of Revenue, and for the commissioner to receive copies of such documents pertinent to verifying the income reported by the applicant family; the authority to inspect and receive copies of documents shall extend also to data from microforms and computer storage devices;

e. Copies of invoices from the providers of all health services whose charges are offered in satisfaction of the CHEPP deductible or for CHEPP payment, together with current information as to which charges have been billed to third parties and the extent to which such third parties have paid or are expected to pay for the charges, information as to which charges have been paid by the family out-of-pocket (with proof of payment), and a signed statement that no insurance company or other third party payment has been received or is expected to be received for charges offered in satisfaction of the CHEPP deductible or for which CHEPP payment is requested, except as explained above.

F. Proof of out-of-pocket payments for prepaid health coverages used to justify partial inclusion of payments by such prepaid plans in the eligible expenses used to satisfy the CHEPP deductible.

8. **The CHEPP Deductible Is Out-of-Pocket.** Eligible expenses offered in satisfaction of the CHEPP deductible must be out-of-pocket expenses and/or liabilities as defined in paragraph B. 30. above. Eligible expenses attributed to the CHEPP deductible need not have been paid in advance of CHEPP eligibility, and failure of an applicant to pay them shall not affect the applicant's eligibility. Payment of such deductible expenses by relatives, friends, or other persons having no legal duty to pay shall not defeat the out-of-pocket character of the expenses. If a payment by a liable third party is not available within a reasonable period of time (normally 120 days from the date of application), and if the applicant cannot otherwise qualify for the CHEP Program, the charges whose payment is in question may be treated as eligible expenses for satisfaction of the CHEPP deductible, provided all required assignment of benefits are signed by the member of the applicant family who ap-

pears to be entitled to the delay or disputed third party payment.

9. **Satisfaction of the CHEPP deductible.** The applicant for CHEPP benefits may select which of his qualified expenses for services received subsequent to July 1, 1977 is to be the earliest for satisfaction of the CHEPP deductible. Having selected a beginning date, the applicant shall then offer his remaining qualified expenses incurred after that date in satisfaction of the deductible, in the order in which such remaining expenses were incurred. The date of an expense shall be deemed to be the date of the earliest service occasioning any part of the expense or charge. Applicants must be Minnesota residents at the time each service is received whose charge is used to satisfy the CHEPP deductible, but the services may be received in other states.

10. **Income Considered in Special Cases.** If a widow or widower applies for CHEPP benefits, the income received prior to death by the deceased spouse which was paid during the calendar year preceding the application year shall be disregarded in determining the CHEPP deductible which must be met by the applicant. Similarly, if an applicant or the applicant's spouse has petitioned for a dissolution of marriage and there exists a temporary decree or other legally binding agreement specifying the terms of separation, the gross income of the non-applicant spouse and any dependents living with the non-applicant spouse shall not be considered in computing the amount of the applicant's CHEPP deductible, provided the applicant is in fact separated from and living apart from the non-applicant spouse.

11. **Duration of eligibility.** Eligibility for CHEPP-1 benefits shall run for 12 calendar months, beginning on the first day of the month and year of the earliest service occasioning a qualified expense offered in satisfaction of the CHEPP deductible. Such eligibility shall not cover the portion of any qualified expense offered in satisfaction of the deductible, but it may cover other qualified expenses incurred during the deductible period if such expenses were not known to be qualified at the time of application. Children who reach an age at which they become ineligible for CHEPP benefits during the 12 month period shall remain covered until the last day of the month in which they reach that age.

Eligibility for CHEPP-2 benefits shall run from the date of satisfaction of the CHEPP-2 deductible until the last day of the state fiscal year, this being currently June 30th. CHEPP-2 eligibility shall end, however, not

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## PROPOSED RULES

later than the last day of the month in which the eligible nursing home patient reaches the age of 65 years.

Eligible persons who establish residence in another state shall be ineligible for CHEPP payments for services they receive after their change in residence.

12. Eligibility for payment of qualified nursing home expenses. A CHEPP applicant's eligibility for payment of qualified nursing home expenses as defined in section B.31. above shall be figured separately from eligibility for other CHEPP benefits. Qualified nursing home expenses as defined in section B.31. shall not be used to satisfy the CHEPP deductible for other CHEPP benefits, and other qualified expenses shall not be used to satisfy the CHEPP deductible for reimbursement of qualified nursing home expenses.

13. Application for payment of qualified nursing home expenses. Persons desiring CHEPP payment of qualified nursing home expenses shall apply for payment in a timely way. Application shall be made not later than 60 days after the end of the earliest month for which payment will be requested. Applications for payments for the last month of the State fiscal year (i.e. June) shall be made not later than the last day of the following month.

Persons who wish per diem charges of nursing homes to be limited to those allowed by Medical Assistance must establish eligibility for CHEPP reimbursement in the month before the month in which the limitation on charges is claimed against the nursing home.

14. Termination of eligibility. Eligibility for CHEPP benefits may be terminated or interrupted by the commissioner if third party payments are made for services whose expenses were offered in satisfaction of the CHEPP deductible, regardless of whether they are made to the beneficiary, a provider of care, or the State. If a third party payment interrupts a family's CHEPP eligibility, the commissioner shall notify the family by letter. The amount of deductible the family must incur to become eligible for CHEPP again is small, it shall be entered into the computerized central payments system as a residual spend-down amount. Then the family shall be permitted to continue to have medical claims billed to the CHEPP program, but amounts payable by the State shall be used to satisfy that residual spend-down before any actual payment is made on a family's behalf. Families which choose to re-establish eligibility for CHEPP benefits in this way are liable to providers of care for both their own copayment amounts and for State-share payments held back to satisfy the residual spend-down. Such families shall tell providers of health

services of their interrupted CHEPP eligibility at the time of receiving health services.

Eligibility for CHEPP benefits may also be terminated by the commissioner upon a clear determination by the commissioner that incorrect or fraudulent data was submitted by an applicant in order to become eligible. Such a determination shall not be made until 14 days have passed from notice to the family by letter that it is being considered and that the matter may be discussed with a designated representative of the commissioner. If eligibility is terminated because of errors made in good faith in figuring a family's deductible or its satisfaction, the family may be allowed to continue in the CHEP Program with the unsatisfied deductible amount being treated as a residual spend-down amount as provided in the preceding paragraph.

Families whose CHEPP eligibility is terminated or interrupted to satisfy additional deductible amounts shall return their CHEPP eligibility identification cards to the Department of Public Welfare, which shall issue replacement cards for families on interrupted eligibility.

15. Appeals. The final decision of the commissioner denying an application for status as an eligible person, suspending it, or revoking it, or denying all or part of the charges for a health service may be appealed by any interested party pursuant to Minnesota Statutes, chapter 15.

### D. Administration of benefits and payments.

1. Benefits payable. Except for qualified nursing home expenses, the Department of Public Welfare shall pay 90 percent of the reasonable charge for an eligible person's qualified expenses in excess of his CHEPP deductible. The eligible person shall remain liable to the provider of health services for the remaining 10 percent of the reasonable charge for each service.

For qualified nursing home expenses, the Department of Public Welfare shall pay, at the end of each State fiscal year, an amount for each eligible person calculated as follows, unless some other formula is set by law:

+ (Reasonable cost of eligible person's qualified nursing home care during the State's fiscal year)

- (20 percent of the eligible person's household income in the calendar year before the year application is filed for CHEPP)

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= Eligible person's raw entitlement

The CHEP Program will not pay more than the raw

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entitlement, but if there are insufficient funds earmarked for qualified nursing home expenses, the program's payments will be calculated as follows:

$$\text{Payable Amount} = \left( \begin{array}{l} \text{State Appropriation for} \\ \text{qualified nursing home} \\ \text{expenses} \end{array} \right) + \left( \begin{array}{l} \text{Eligible person's} \\ \text{raw entitlement} \\ \hline \text{The sum of all eligible} \\ \text{persons' raw entitlements} \end{array} \right)$$

2. **Forgiveness of disallowed charges.** If a charge for a covered service to an eligible person is billed to CHEPP, any part of the charge determined by the Department of Public Welfare to be more than a reasonable charge, or the entire charge if the service is determined to have been not medically necessary, shall be deemed to be an unconscionable fee, against the public policy of this state and unenforceable in any action brought for the recovery of moneys owed. Charges for qualified nursing home expenses shall be considered billed to CHEPP and subject to limitation on the first day of the month following written notice to the nursing home of a patient's eligibility.

In the case of nursing home care which occasions qualified nursing home expenses, any per diem charge for qualified nursing home care given to a person eligible for CHEPP benefits shall be deemed to be a reasonable charge if it is not more than the charge per diem allowed in that section of that facility for that level of care by the Minnesota Medical Assistance Program.

3. **Persons to whom payments are made.** CHEPP-1 benefits shall be paid only to providers of health services, and then only after receipt of a proper billing for review and adjudication; however, benefits shall be paid to eligible persons directly if the eligible person has already paid the provider and the services were received before the date of the eligible person's application for CHEPP-2 benefits shall be paid to the eligible nursing home resident or on his behalf to his spouse or guardian.

4. **Post-payment adjustments.** Adjustments to amounts paid by the CHEP Program shall be settled between the provider and the Department of Public Welfare at 100 percent, with no payment or collection of copayments to or from CHEPP beneficiaries.

5. **Enrollment of regular providers.** Regular providers of services to CHEPP beneficiaries shall give the Department of Public Welfare the same enrollment information and provider agreements that are required for enrollment in the Medical Assistance Program, if these have not been given already to that program. Providers already enrolled in the Medical Assistance Program will be enrolled automatically as providers of services for CHEPP beneficiaries unless they ask in writing not to be. Acceptance of payments on behalf of CHEPP beneficiaries by providers enrolled in the Medical Assistance Program shall be deemed to be an acceptance of the terms of this Rule and to extend the provider's agreement with the Medical Assistance Program to cover services to CHEPP beneficiaries.

6. **Invoicing procedures.** Regular providers of service to CHEPP beneficiaries shall bill the CHEP Program directly, using approved Minnesota Medical Assistance Program invoices and forms. This requirement for billing by providers may be waived by the Department of Public Welfare for services provided and billed before the date an applicant for CHEPP benefits is told that he or she is eligible.

If a provider of health services knows that a patient is eligible for CHEPP benefits, other than qualified nursing home expenses, he shall not try to collect charges from the patient or his family for services which are to be billed to CHEPP until the amount of the CHEPP beneficiary's copayment liability has been reported to the provider by the Department of Public Welfare. (A provider may, however, seek third party payments for services to CHEPP beneficiaries, provided that any third party recoveries of charges for services paid for in part by CHEPP are reported to the CHEP Program.)

Providers who bill the CHEP Program shall accept the program's determination of what will constitute reasonable charges for services to CHEPP beneficiaries, and they shall not attempt to collect from beneficiaries any charges disallowed by the program as excessive or as being for services deemed not medically necessary.

7. **Third party (insurance) claims.** Providers shall bill third parties known to be liable for health services provided to CHEPP beneficiaries or shall supply sufficient information to the Department of Public Welfare to allow the department to claim reimbursement under its rights of assignment or subrogation. Providers shall not supply known CHEPP beneficiaries with in-

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voices requesting payment for services to be billed to the CHEP Program unless such invoices are prominently marked to indicate that payment by the CHEP Program will be or has been requested.

8. CHEPP beneficiary identification cards. CHEPP beneficiaries shall be provided with identification cards giving the dates of their eligibility and their identification numbers. Beneficiaries shall show these cards to providers of health services before they receive services for which they expect part payment by CHEPP. CHEPP beneficiaries eligible only for part payment of qualified nursing home expenses shall receive separate and distinct identification cards or letters.

9. Non-qualifying expenses. Charges for the following shall be considered to be not qualified expenses, not covered by the CHEP Program:

a. Cosmetic surgery, except to repair an injury or birth defect;

b. Private hospital or nursing home rooms, to the extent that the charges exceed the institution's charge for its most common semi-private room, unless a private room is prescribed as medically necessary by a physician. If an institution has no semi-private rooms, its most common semi-private room charge shall be deemed to be 90 percent of its lowest private room charge;

c. Trans-sexual surgery;

d. Artificial insemination;

e. Reversals of sterilizations entered into originally with free and informed consent;

f. Autopsies;

g. Missed appointments;

h. Costs of billing;

i. Inpatient psychiatric care substituted for outpatient care primarily to acquire reimbursability of the services under the CHEP Program.

Procedures used by the Minnesota Medical Assistance program for review of the appropriateness or medical necessity of health services shall be used for the review of claims for CHEPP payments to the extent that they are not incompatible with this rule or with the Catastrophic Health Expense Protection Act. Providers of care shall observe such procedures, including prior-authorization procedures, as a condition of receiving payments from the CHEP Program.

10. Termination of provider enrollments. Providers

may be terminated from enrollment as eligible payees under the CHEP Program according to the procedures established for such termination in the Minnesota Medical Assistance Program. Providers terminated from the Medical Assistance Program for misconduct shall be simultaneously terminated from the CHEP Program.

## Department of Public Welfare

### Early and Periodic Screening and Diagnosis and Treatment Program

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on January 9, 1978, commencing at 8:30 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55105, (612) 296-8118, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

The Early and Periodic Screening, Diagnosis and Treatment Program is designed to provide early and periodic screening and diagnosis of individuals who are eligible for Medical Assistance and who are under the age of 21 to ascertain their physical or mental abnormalities, and to provide health care, treatment, and other measures to correct or ameliorate problems discovered. Proposed Rule 61, if adopted, would specify the conditions under which providers may participate in the EPSDT Program and delineate the requirements which local welfare agencies must follow to administer the EPSDT Program. Provisions of the proposed rule cover introduction; definition of terms; eligibility; physician screening standards; nurse screening standards; periodicity schedules (intervals at which children should be screened); conditions of screening provider participation in the EPSDT program; conditions of diagnosis and treatment, provider participation in the EPSDT program; and local welfare agency responsibilities.

## PROPOSED RULES

Copies of the proposed rule are now available and one free copy may be obtained by writing to Ms. Lori Davidson, EPSDT Section, Minnesota Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155, (612) 296-2631. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 256B. A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155 phone number (612) 296-5615.

EDWARD J. DIRKSWAGER, JR.  
Commissioner

### Rule as Proposed

**DPW 61 Early and periodic screening, diagnosis and treatment.**

#### A. Introduction

This rule governs the administration of the Early and Periodic Screening, Diagnosis and Treatment Program (hereinafter referred to as the EPSDT Program). This program is mandated by § 1905(a)(4)(B) of the Social Security Act.

The purpose of the EPSDT Program is to identify potentially handicapping conditions in children eligible for Medical Assistance, to provide diagnosis and treatment for conditions identified, and to encourage the entrance of children into the health care system.

**Note:** It is the intention of the Department, in order to ensure effective delivery of EPSDT services, that parents be involved with the child throughout the screening,

diagnosis and treatment process. However, since the program includes "children" through age twenty, the Department recognizes that some children, including teenagers and adults who are eighteen through twenty, may be able to supply requested information themselves and may not wish to have their parents involved in the screening process. To allow for such cases, references in this rule are made to "parent/child". In using this language, the Department intends that health providers and local welfare agencies involve the parent whenever possible in the program, but also recognize the right of the child to privacy.

#### B. Definitions

**1. Child:** For purposes of this rule, any individual from birth through twenty years of age who is eligible for Medical Assistance.

**2. Commissioner:** The commissioner of Public Welfare.

**3. Department:** The Department of Public Welfare.

**4. Diagnosis:** Determination of the nature or cause of physical or developmental disease or abnormality through the use of health history, physical, developmental, and psychological examination, laboratory tests and x-rays.

**5. EPSDT equivalent clinic:** A facility which provides screening services according to Minnesota Department of Health EPS standards, provides follow-up services, and is monitored by the Minnesota Department of Health. Such facilities provide comprehensive care in a sequence incompatible with the completion of the EPSDT billing form.

**6. EPSDT Provider Agreement:** An agreement between a provider of screening services and the Department that the provider, in order to qualify for Medical Assistance reimbursement, will screen such Medical Assistance child according to the appropriate screening standards specified in Section E of this rule, will report all findings on the EPSDT billing form, and will refer children according to procedures specified in section G.3. of this rule.

**7. Follow-up:** Efforts by local agencies to ensure that the screening, diagnosis and treatment services needed by a child are obtained.

**KEY:** Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are **underlined and boldfaced**, while deletions from proposed rules are printed within [[double brackets]].

## PROPOSED RULES

8. Local agency: The county welfare board, multi-county welfare board, or human service agency established in accordance with state law.

9. Medical assistance: Program authorized under Title XIX of the Social Security Act to provide medical care for individuals whose resources do not enable them to purchase such care.

10. Minnesota Department of Health-approved EPS clinic: An agency which provides screening services according to Minnesota Department of Health screening and administrative standards, which operates under the supervision of a registered nurse, public health nurse, or pediatric/family nurse practitioner, and which qualifies for Medical Assistance and other public third party reimbursement.

11. Nurse-supervised EPSDT clinic: A facility or individual which provides screening services according to Minnesota Department of Health screening standards and Department of Public Welfare administrative standards. Such clinics operate under the supervision of a registered nurse, public health nurse, or pediatric/family nurse practitioner, and qualify for Medical Assistance reimbursement.

12. Outreach: Efforts by the Department or local agencies to inform and encourage persons to avail themselves of services which they might not otherwise request without such assistance.

13. Periodic: At regular, fixed intervals established for screening by health care experts to assure that disease or abnormality is not incipient or has not appeared since the child's last evaluation.

14. Physician-supervised EPSDT clinic: A facility or individual which provides screening services according to physician screening standards, which operates under the supervision of a licensed physician, and which qualifies for medical assistance reimbursement.

15. Screening: The use of quick, simple procedures to sort apparently well children from those who need more definitive study of possible physical or developmental problems.

16. Treatment: The use of medical care and services to prevent, correct or ameliorate disease or abnormalities detected by screening and diagnostic procedures.

### C. Eligibility.

1. All persons from birth through age twenty who are eligible for Medical Assistance are eligible for the EPSDT Program.

2. Eligibility for the EPSDT Program terminates when Medical Assistance eligibility terminates, regardless of the child's status in the EPSDT process.

D. Physician screening standards. A licensed physician must provide the following components in order for an examination to be reimbursed as a screening under the EPSDT Program.

1. Health history: A health and developmental history must be obtained from the child, the parent, and/or another responsible adult who is familiar with the child's health history and must include information on lead and tuberculosis exposure, nutrition intake, and seizure history.

2. Assessment of physical growth: The child's height and weight must be measured and compared with the ranges considered normal for children of that age. Head circumference measurements must be taken for children under three years of age.

3. Unclothed physical examination: The following areas must be checked according to accepted medical procedures: pulse, respiration, blood pressure, head, eyes, ears, nose, mouth, pharynx, neck, chest, heart, lungs, abdomen, spine, genitals, extremities, joints, muscle tone, skin, and neurological.

4. Dental inspection: The mouth must be examined for any obvious dental problems. A child who is three years of age or older must be referred to a dentist for preventive care if she/he has never been to a dentist or if it has been one year since the last dental appointment.

### 5. Vision:

a. Children under the age of three years:

(1) Must be checked for a history of:

(a) Maternal and/or neonatal infection.

(b) Family history of ocular abnormalities such as color blindness or retinitis pigmentation.

(2) Must be observed for:

(a) Pupils and light following reflex.

(b) Presence/absence of nystagmus.

(c) Muscle balance — examination for esotropia, exotropia, large phorias.

(d) External examination of eyes, including lids, conjunctiva and cornea.

(e) Parental concern regarding child's vision.

## PROPOSED RULES

### b. Children over the age of three years:

(1) Must be checked for all of the items contained in Section E.5.a.

(2) Must, in addition, be checked for visual acuity. A test such as the STYCAR, the Snellen E Cube, the Snellen E Chart, and the Snellen Alphabet Chart, or their equivalent, must be used.

### 6. Hearing:

a. Children under the age of three years must be observed for:

(1) Retardation of language acquisition or history of such retardation.

(2) Failure to directionalize to sounds.

(3) History of repeated otitis media during early life.

(4) Parental concern regarding child's hearing.

### b. Children over the age of three years:

(1) Must be observed for all of the items contained in Section E.6.a. (1) through (4) above.

(2) Must receive a pure tone audiometric test or referral for pure tone audiometric testing if items (1) through (4) above indicate the need for audiometric testing.

### 7. Developmental screening:

a. For children ages birth through five years, the Denver Prescreening Developmental Questionnaire (PDQ) must be completed. All children who fail the PDQ must be screened further by use of the Denver Developmental Screening Test (DDST). If the screener does not provide the DDST, referral must be made to an agency that does provide it.

b. For children ages six through twenty years, the provider must screen for the following areas according to his/her standard procedures: fine/gross motor development, speech, and socialization. Developmental questions must be included on the health history for this age group.

### 8. Sexual development:

a. Sexual development appropriate to the child's age must be checked for all children, with special emphasis given to children who have reached puberty.

b. At the request of the parent/child, counseling on normal development, birth control and venereal disease, as well as appropriate prescriptions and testing, must be provided by the screener, or referral to appropriate resources must be made.

c. The option to receive a pelvic examination with appropriate testing (GC, Pap Smear, other tests at provider's discretion) must be offered to all females who have reached puberty.

### 9. Nutritional status:

a. A child having any detectable nutritional deficiencies must receive nutritional counseling or must be referred for such counseling.

b. When a child's history reveals that his/her diet regularly lacks two or more daily servings from one of the four basic food groups, the parent/child must receive nutritional counseling or must be referred for nutritional counseling even if there are no objective signs of poor nutrition.

10. Immunizations: The immunization status of all children must be checked. Needed immunizations must be offered and provided if requested or referral made so that the child can receive the needed immunizations. Immunizations must be administered according to the Recommended Schedule of Immunizations developed by the Minnesota Department of Health and approved by the Minnesota State Medical Association.

### 11. Laboratory tests:

a. Tuberculin testing: Must be performed for all children once at fifteen months of age or at their first screening, if this screening occurs later than fifteen months. A child may receive additional tuberculin testing at later ages if his/her history indicates the possibility of exposure.

b. Lead absorption testing: Must be performed on all children whose history and physical findings indicate the possibility of exposure to undue levels of lead in the environment or atmosphere.

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## PROPOSED RULES

c. **Urine testing:** All children over the age of two years must be tested at their first screening for the presence of glucose, ketones, protein and other abnormalities in the urine. Females (at or near the ages of four and ten) must be tested for bacteriuria.

d. **Anemia testing:** All children must be tested for anemia by use of either a microhematocrit determination or a hemoglobin concentration. This test should be done near the ages of six months, one year, two years, four years, and fifteen years.

e. **Sickle cell testing:** Tests for sickle cell disease or trait must be offered to all children known to be at risk and must be provided if requested by the parent/child. Only one sickle cell test is needed. If sickle cell trait is found, parent/child must be referred for genetic counseling if they so desire.

f. **Other laboratory tests:** Tests for cervical cancer, venereal disease, pregnancy and parasites should be performed when indicated and charged as part of the screening examination.

### E. Nurse screening standards

The Department will recognize as screening providers all nurse-supervised EPS and EPSDT clinics which follow the screening standards and periodicity schedule devised by the Minnesota Department of Health. Screenings performed by these providers will be reimbursed under the EPSDT Program.

### F. Periodicity schedule

1. The Department will offer all children who have been screened the opportunity for re-screening at the following ages: six months, nine months, one year, eighteen months, two years, four years, and every three years thereafter. The Department will offer screening services on a yearly basis to children who have not been screened.

2. For physician-supervised EPSDT clinics, screening components must be provided according to the attached Physician EPSDT Periodicity Schedule.

G. **Conditions of screening provider participation in the EPSDT program.**

1. All screening providers must complete the EPSDT billing form with one total charge submitted for the complete screening package.

(a) The parent/child must be provided with a copy of the billing form.

(b) Screening providers which are designated as EPSDT Equivalent Programs by the Department need not complete the billing form. In order to receive such a designation, a facility must screen children according to Minnesota Department of Health standards, must provide follow-up services to those children, and must be monitored by the Minnesota Department of Health. EPSDT Equivalent Programs may submit screening statistics in aggregate form.

2. All screening providers must complete a screening referral form, supplied by the Department, and provide this form to the parent/child in every instance when a child is referred for further diagnosis and treatment.

3. All screening providers must sign an EPSDT Provider Agreement whereby they agree to the provisions of Sections D through G.2 above.

4. In order to qualify for Medical Assistance reimbursement, screening providers must follow all requirements for Medical Assistance Program participation as specified in DPW Rule 47.

5. All screening providers shall be reimbursed according to their usual and customary fee until six months after this rule is published. At that time, the Department will establish one maximum screening fee for physician supervised clinics and another maximum screening fee for nurse supervised clinics. Each of these maximum fees shall be equal to the seventy-fifth percentile of all screening charges submitted by each group during that six month period. After the maximum fees are established, screening providers shall be reimbursed according to their usual and customary fee or the Department's maximum fee, whichever is lower. The maximum fee shall be updated yearly.

6. Health maintenance organizations which participate in the Medical Assistance Program must provide EPSDT services as part of their contract with the Department for their enrollees at no extra charge to the Department, and must complete the EPSDT billing form for each child screened.

7. Screening providers may, after notifying the Department, elect to provide one or more of the screening components by referral to other providers. In such cases, the screening provider must ensure that the child receives the components for which he/she was referred before the screening is billed.

8. Screening providers may provide an outreach component as part of the screening and may charge for the extra outreach service after they have submitted a budget to the Department which justifies the outreach charge.

# PROPOSED RULES

## 9. The Department must provide:

a. Training on screening components to all providers who sign the EPSDT Provider Agreement and who request such training.

b. Assistance in obtaining the forms and materials needed in the screening process.

10. The parent/child who requests screening services has free choice of all local screening providers who have signed EPSDT Provider Agreements.

## H. Conditions of diagnosis and treatment provider participation in the EPSDT Program.

1. Any health care provider licensed under state law who has signed a Medical Assistance Provider Agreement is eligible to provide appropriate diagnostic and treatment services to a child who has been screened.

2. Diagnosis and treatment providers must bill according to regular Medical Assistance procedures as outlined in DPW Rule 47. In addition, providers who diagnose or treat a child who has been screened, pursuant to Sections E and F above, must complete the billing invoice so as to indicate that this child is being diagnosed or treated as part of the EPSDT Program. The Department will make payments according to regular Medical Assistance procedures as specified in DPW Rule 47.

3. Diagnosis and treatment providers must follow all requirements for Medical Assistance Program participation as specified in DPW Rule 47.

4. The child or parent of the child who is referred for diagnosis and treatment as a result of a screening has free choice of all local diagnosis and treatment providers who are enrolled in the Medical Assistance Program.

## I. Local agency responsibilities

### 1. Outreach

a. The local agency must notify all applicants for programs which include Medical assistance eligibility about the EPSDT Program.

(1) The notification must include an oral and written explanation of the program.

(2) The notification must take place within thirty days of the date of application.

(3) The local agency must obtain a definite response from each applicant for each child in the family within thirty days of the date of notification.

b. The Department will notify, in writing, parents, whose children have been screened, of their eligibility for re-screening at periodic intervals. The Department will also re-notify parents whose children have never been screened of their continuing eligibility for an initial screening. The local agency will receive the response and must handle the response per Section I.2. through I.6.

### 2. Response to a screening request.

a. The local agency must provide each parent/child who accepts EPSDT services with a written list of screening providers in the area.

b. The local agency must, in writing, offer transportation to each parent/child who accepts EPSDT services and must provide transportation to the screening site to each child who requests such transportation or for whom such transportation is requested.

c. The local agency must, in writing, offer assistance in making the screening appointment to each parent/child who accepts EPSDT services and must provide such assistance to each child who requests it or for whom such assistance is requested.

### 3. Follow-up after a screening request.

a. The local agency must make one additional offer of assistance to each parent/child who accepted screening services and was not screened within sixty days.

b. This offer of assistance may be done by a home visit, telephone call, or letter.

### 4. Follow-up for diagnosis and treatment.

a. The Department, through the screening provider, will notify each parent/child who is referred for diagnosis and treatment, in writing, that the local agency will provide assistance, including transportation, in obtaining the needed diagnosis and treatment.

(1) If requested, the local agency must provide names and addresses of providers of the needed diagnostic and treatment services.

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## PROPOSED RULES

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(2) If requested, the local agency must provide transportation to the diagnostic and treatment site.

b. The local agency must make one additional contact, within sixty days of the screening, with each parent/child who was referred for diagnosis and treatment in order to ascertain if needed diagnosis and treatment has been obtained.

(1) This contact must be made by either a home visit or telephone call.

(2) If diagnosis and treatment has not been obtained, the local agency must offer assistance, including transportation and/or a list of diagnosis and treatment providers, and must provide such assistance if requested.

(3) If the local agency has previously been informed that the child has received the needed diagnosis and treatment, this contact need not be made.

5. Local agencies must provide EPSDT notification and follow-up services to non-English speaking, illiterate and disabled applicants and recipients by a mode of communication which will enable them to fully understand and utilize the program.

6. Children in foster care eligible for medical assistance.

a. The local agency must accept EPSDT services for all foster children who are dependent/neglected state wards and who are eligible for Medical Assistance, except when such acceptance would not be in the best interests of the child.

b. The local agency must discuss the availability of EPSDT services with the parents of all foster children who are eligible for Medical Assistance and who are under the legal custody of the local agency or whose parents have entered into a voluntary placement agreement with the local agency. The local agency must assist the parent in deciding whether to accept EPSDT services.

c. The local agency must provide the case management services defined in Section I.2. through I.4. above to all foster children for whom EPSDT services are accepted.

d. The Department will notify the local agency in writing when foster children who are eligible for Medical Assistance are eligible for periodic re-screenings. The local agency must handle these notifications as specified in Section 5.a. and 5.b. above.

### 7. Documentation.

Local agencies must document the completion of requirements in Section I.1 through I.4. above on forms prescribed by the Department.

### 8. Inter-agency coordination.

Local agencies must cooperate, whenever possible, with other agencies which provide health services to children so that duplication of services is avoided. Examples of such agencies are local nursing services, local Head Start agencies, and local school districts.

### 9. Reimbursement for EPSDT staff.

a. Local agencies which intend to claim Title XIX federal financial participation at seventy-five percent for salaries and expenses of EPSDT administrative support staff must obtain written authorization from the Department by submittal of a plan that meets state and federal program requirements.

b. Local agencies which intend to claim Title XIX federal financial participation at seventy-five percent for contracts with outside agencies to perform EPSDT administrative support services must obtain written authorization from the Department by submittal of a plan that meets state and federal program requirements.

## Department of Public Welfare Care and Treatment of Hemophiliacs

### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the State Office Building Auditorium, Wabasha Street (between Aurora and Fuller), St. Paul, Minnesota, 55155, on Thursday, January 12, 1978, commencing at 8:30 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to George Beck, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55105, (612) 296-8108, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

# PROPOSED RULES

## PHYSICIAN EPSDT PERIODICITY CHART

INTERVALS	MONTHS						YEARS					
	0-5	5-7	8-11	12-15	16-19	20-35	3-4	5-7	8-10	11-13	14-17	18-21
Health History	X	X	X	X	X	X	X	X	X	X	X	X
Assessment of Physical Growth:												
• Height	X	X	X	X	X	X	X	X	X	X	X	X
• Weight	X	X	X	X	X	X	X	X	X	X	X	X
• OFC	X	X	X	X	X	X						
Physical Examination	X	X	X	X	X	X	X	X	X	X	X	X
Dental Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Vision	X	X	X	X	X	X	X	X	X	X	X	X
Hearing	X	X	X	X	X	X	X	X	X	X	X	X
Developmental:												
• PDQ/DDST	X	X	X	X	X	X	X					
• Interview/History Only								X	X	X	X	X
Sexual Development	X	X	X	X	X	X	X	X	X	X	X	X
Nutrition Review	X	X	X	X	X	X	X	X	X	X	X	X
Immunization Review	X	X	X	X	X	←	←	X	←	←	X	←
Tuberculin				X	←	←	←	←	←	←	←	←
Lead Absorption Testing												
Urine						X	←	←	←	←	←	←
Bacteriuria (females)							X	←	X	←	←	←
Anemia Testing		X	←	X	←	X	X	←	←	←	X	←
Sickle Cell												
Other Lab Tests												

Procedure to be completed if not done at the previous visit, or on the first visit.

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## PROPOSED RULES

The purpose of proposed Rule 62 is to provide financial assistance to eligible individuals who are unable to pay for or obtain third party reimbursement for the cost of hemophiliac care and treatment on a continuing basis. The intent of the rule is to provide financial assistance for the cost of necessary blood, blood components and derivatives, and other effective agents suitable for use in hospitals, medical and dental facilities, and at home, and for periodic evaluation at a designated comprehensive care center. Provisions of the proposed rule cover definition of terms, applications, eligibility, care and treatment, and billing and reimbursement procedures.

Copies of the proposed rule are now available and one free copy may be obtained by writing to Robert G. Randle, Director, Medical Assistance Program, Box 43170, 690 North Robert Street, St. Paul, Minnesota, 55164. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Laws of 1977 Ch. 453, § 24. A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone number (612) 296-5615.

Edward J. Dirkswager, Jr.  
Commissioner

### Rule as Proposed

DPW 62 Care and treatment of hemophiliacs.

#### A. Introduction

1. This rule establishes a state-wide program of financial assistance to hemophilic persons or if dependent persons, to their parent or guardian as authorized by Laws of 1977, ch. 453 § 24.

2. The purpose of this rule is to provide necessary treatment to eligible individuals who are unable to pay the cost of their care and treatment and for whom no private or public third party payment is available.

3. This rule is binding on the Department of Public Welfare, on all local welfare agencies and human service boards (hereinafter called local welfare agencies), on all providers of health care who participate in this program, and on individuals who apply for or receive benefits under this program.

4. The Commissioner of Public Welfare shall issue informational materials to local welfare agencies, to providers of health care which may be paid under this program, and to individuals who apply for or receive benefits under this program, so that this rule is put into effect in an orderly and uniform way. The Commissioner may prescribe forms to be used in this program.

5. This program shall be administered so as not to deny applicants for or recipients of benefits their individual and civil rights, nor to disclose information regarding them except as provided under applicable state law or official departmental rules and regulations.

6. Any provision of this rule which is inconsistent with Laws of 1977 ch. 453 § 24 is superseded thereby.

B. Definitions. For the purposes of this rule, the items defined in this section have the meanings given them.

1. "Catastrophic Health Expense Protection Program" (CHEPP) means that program of financial assistance established by Minn. Stat. ch. 62E.54, subd. 1 (1976).

2. "Commissioner" means the Commissioner of the Department of Public Welfare or his designee.

3. "Comprehensive Care Center" means a medical facility in which a multidisciplinary team coordinates a program of total care for hemophiliacs, including emergency care and consultation.

4. "Crippled Childrens Service" means that medical program of diagnostic evaluation and medical, dental and surgical care for children with physical handicaps under 21 years old and persons 21 years and older with cystic fibrosis provided in accordance with Title V of the Social Security Act.

5. "Department" means the Department of Public Welfare.

6. "Dependent person" means a spouse, unmarried child under the age of 19 years, a child who is a student under age 25 and financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent. The term "child" as used here includes legally adopted children and financially dependent step children, foster children, and children under the guardianship of the applicant or his spouse. Eligibility for benefits of children

## PROPOSED RULES

reaching age 19 or 25 shall end on the last day of the birthdate month in the eligibility year.

7. "General Assistance Medical Care" (GAMC) means that program of medical assistance established by Minn. Stat. ch. 256D.

8. "Guardian" means a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person, who, for some peculiarity of status, or defect of age, understanding, or self control, is considered incapable of administering his own affairs.

9. "Health Maintenance Organization" (HMO) means an organization offering prepaid health care as defined by Minn. Stat. ch. 62D.

10. "Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency in a blood factor or a blood component.

11. "Medical Assistance Program" means that program of medical assistance established by Title XIX of the Social Security Act and by Minn. Stat. ch. 256B.

12. "Medicare" means that program of payment for health care established by Title XVIII of the Social Security Act.

13. "Parent" means the natural or adoptive parent of an applicant/recipient.

14. "Third party" means insurance companies, health maintenance organizations, Medicare, Medical Assistance Program, Crippled Childrens Service, General Assistance Medical Care, Catastrophic Health Expense Protection Program, Workers' Compensation, any other governmental program, any self-insurance plan providing health care benefits, and any plan regulated by Minn. Stat. § 62A, 62C, 62D, 64A or Sections 62E.01 through 62E.17.

### C. Application.

1. Application for financial assistance under this rule shall be made on forms prescribed by the Commissioner. Each application shall contain a signed statement by the applicant that the information given is true and complete to the best of his knowledge and ability to make it such.

2. Completed applications shall be accepted by the local welfare agency, by Crippled Childrens Service, and by

designated comprehensive care centers. All completed applications shall be forwarded to the Department for a determination of eligibility for benefits.

3. The Department shall within 30 days of receipt of a completed application, notify the applicant in writing that his application has been approved or denied. If the application is denied, the individual shall be notified in writing of the reasons for denial.

4. Applicants and recipients under this rule have the right to a fair hearing when aggrieved by action or inaction of the Department. Such hearings shall be conducted in accordance with contested case and/or appeal procedures established by and consistent with applicable state law. The aggrieved applicant/recipient shall submit a written request for a hearing to the Department. A state welfare referee shall conduct a hearing on the matter and shall recommend an order to the Commissioner. The Commissioner shall issue an order on the matter to the applicant/recipient. Any order so issued shall be conclusive upon the parties unless appeal is taken to District Court.

D. Eligibility. Eligibility for benefits under this rule shall be determined by the Department in accordance with the criteria listed below:

### 1. Definitions

a. "Income" means gross income, both earned and unearned, from any source whatsoever.

b. "Responsible relative" means a spouse or the parent of an applicant who is a child less than 18 years of age.

c. "Resident of Minn." means an individual who is presently residing in Minn. having there his principal and permanent abode, and who has no intent to return to another state to live upon completion of a course of medical care.

d. "Copayment" means the amount of payment the individual and his responsible relatives must make toward the cost of hemophiliac care and treatment. The copayment shall be applied against each bill submitted for payment under this rule. The copayment shall be determined by the following schedule:

Individuals whose gross income together with that of any responsible relatives is less than \$11,000 shall not be required to make copayments.

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## PROPOSED RULES

2. Eligibility for benefits under this program shall be established for any person:

- a. Who is a resident of Minn., and
- b. Who is certified by his attending physician as suffering from hemophilia, and
- c. Who is unable to obtain third party reimbursement from any private or public source for the cost of hemophilia care and treatment, and
- d. Who has submitted a completed and signed application to the Department, and
- e. Who agrees to make copayments for hemophiliac care and treatment in accordance with the schedule of copayments in § D.1.d. *supra*, and
- f. Who as a condition of eligibility assigns any third party benefits to the extent of the Department's payment on behalf of the eligible individual. The assignment shall include an authorization to release pertinent medical information for purposes of collecting third party benefits for health care rendered.

3. Eligibility for benefits under this rule shall be established for a period of twelve (12) months. The individual shall be required to reapply and his eligibility be redetermined at 12 month intervals.

4. An individual who is determined eligible for benefits under this rule shall be examined at least annually at a comprehensive care center designated by the Department. Such periodic examination shall be a condition of continued eligibility.

5. The Department shall issue identification cards to each individual who is determined eligible for benefits under this program. A new ID card will be issued with each redetermination of eligibility. When eligibility for benefits terminates, the individual shall be required to return his ID card to the Department.

6. It shall be the responsibility of each individual who is determined eligible for benefits under this program to report any change in family income or size of family to the Department within 10 days of any such change.

### E. Care and Treatment

1. Financial assistance shall be available to pay the cost of the following care and treatment:

- a. blood
- b. blood components
- c. blood derivatives
- d. other agents deemed suitable for effective treatment in hospitals, medical and dental facilities, and at home.
- e. periodic evaluation at a designated comprehensive care center.

2. The following services are not reimbursable under this program:

- a. hospital care
- b. physician care other than provided by Section E.1.e. *supra*
- c. dental care
- d. medical transportation

### F. Billing and Reimbursement

1. Reimbursable care and treatment as defined in E.1, *supra*, shall be billed by the provider directly to the Department. The Department shall prescribe the forms to be used in billing the program and shall make such forms available to all providers of hemophiliac care and treatment.

2. The Department shall pay the reasonable cost of care and treatment provided after subtracting any copayment amount owed by the applicant and his responsible relatives.

3. Providers shall accept the amounts paid by the Department together with the copayment made by the eligible person as payment in full and are prohibited from requesting or receiving additional payment from the eligible individual or his responsible relatives.

4. Providers shall bill third parties known to be liable for care and treatment provided an eligible individual or shall supply sufficient information to the Department to enable the Department to claim reimbursement from such liable third party.

5. Financial assistance provided under this rule shall be considered a resource of last resort to the eligible individual.

6. The Department shall provide financial assistance under this rule only so long as funds are available as authorized by Laws of 1977, ch. 453 § 24.

# OFFICIAL NOTICES

## Ethical Practices Board

### Preliminary Agenda for Meeting on Monday, December 12, 1977, 1:30 p.m., Room 112, State Capitol

1. Minutes (November 7, 1977)
2. Report of the Chairperson
3. Report of Legal Counsel
4. Advisory Opinion — Wyman L. Spano (see *State Register* October 17, 1977)
5. Advisory Opinion — Representative Steven Wenzel (see *State Register* November 14, 1977)
6. Advisory Opinion — Roland C. Amundson (see *State Register* November 14, 1977)
7. Advisory Opinion — Gene Lourey (see *State Register* November 21, 1977)
8. Executive Director Report
  - a) financial report
  - b) delinquent lobbyists
9. Other business
10. Executive Session pursuant to Minn. Stat. § 10A.02 subd. 10.

## Pollution Control Agency

### Notice of Reconvening of Hearing on Application for Variance by the Cook Landfill Authority

Please take notice that the public hearing in the above matter will be reconvened by the Minnesota Pollution Control Agency (hereinafter "Agency") pursuant to the authority granted the Agency by Minn. Stat. § 116.07, subd. 5 (1976), to consider the variance application of the Cook Landfill Authority for a variance from the requirements of Minnesota Regulations SW 6 for the construction and operation of a sanitary landfill. The hearing will be conducted by Howard Kaibel, a Hearing Examiner of the State Office of Hearing Examiners.

The reconvened public hearing will be held in the Cook Community Center, Cook, Minnesota, and will commence at 1:00 p.m. on Wednesday, January 4, 1978, and continue until closed by the Hearing Examiner.

The address of the Hearing Examiner is: Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104. His telephone number is (612) 296-8107. All documents and requests relating to this hearing should be submitted to him at that address.

Any person may petition to intervene in the hearing as a party in accordance with Minnesota Regulations HE 210 (Rules of the Office of Hearing Examiners). Such petitions shall be submitted to the Hearing Examiner and served upon the parties identified below at least 15 days prior to reconvening of the hearing. Although intervention as a party is still possible at this time, such intervention will not necessarily alleviate any effects caused by a failure to intervene before the original commencement of this hearing.

All parties to this hearing have the right to be represented by legal counsel. The person identified as a party to this hearing as of the date of this notice is:

Cook Landfill Authority  
% Earl Soderberg  
Cook, Minnesota 55723

The purpose of this hearing is to receive and review testimony, evidence and argument relating to the variance application. The Cook Landfill Authority proposes to construct and operate a solid waste disposal site without complying with the requirements of Minnesota Regulation SW 6 (2) (d) (i).

The variance is being requested because the applicant alleges it would be an economic hardship for it to comply with the requirements of Minnesota Regulation SW 6 (2) (d) (i). That regulation requires that refuse be covered after each day of operation with suitable cover material. The applicant proposes to cover the refuse once a week from May 1-October 31 and twice a month from November 1-April 30. The proposed facility would be located in a sparsely populated area. The applicant alleges there are no economically prudent methods for otherwise disposing of the area's refuse.

The hearing was originally convened on Friday, July 30, 1976. The Hearing Examiner submitted a report to the Agency on September 23, 1976. On January 24, 1977, the Agency remanded the matter to the Hearing Examiner. In accordance with that remand, the Hearing Examiner will make a recommendation to the Agency on the variance application. This recommendation will be based on evidence already in the record and on such further evidence as the Hearing Examiner deems necessary and appropriate.

## OFFICIAL NOTICES

The hearing is being conducted in accordance with Minn. Reg. HE 201-222 (Rules of the Office of Hearing Examiner), and, to the extent to which they do not conflict, with Minn. Reg. MPCA 1-13 (The Agency's Rules of Procedure). A copy of these rules is available for inspection at the Agency's offices, 1935 West County Road B2, Roseville, Minnesota, or they may be purchased from the Documents Section, Room 140, Centennial Office Building, St. Paul, Minnesota 55155.

Information regarding this variance hearing and, specifically, informal disposition pursuant to Minn. Reg. HE 207 or discovery pursuant to HE 214 can be obtained by contacting G. Blaine Seaborn at the Agency at 1935 West County Road B2, Roseville, Minnesota 55113 and at (612) 296-7348.

The Cook Landfill Authority has already filed a notice of appearance. Any other party intending to appear at the variance hearing shall file with the Hearing Examiner a Notice of Appearance, which shall advise the Hearing Examiner of the party's intent to appear and shall indicate the title of the case, the Agency ordering the hearing, the party's current address and telephone number and the name, office address and telephone number of the party's attorney. The Notice of Appearance shall be filed with the Hearing Examiner at least 10 days prior to the hearing. It is important to note that the filing of a Notice of Appearance only serves to inform the Hearing Examiner and the Agency that the particular party will be present at the hearing. The filing of a Notice of Appearance does *not* make any person a party to the hearing. If any person other than those listed in this Notice wishes to become a party, that person must, as stated above, petition to become a party in accordance with Minnesota Regulations HE 210.

Failure to appear at this variance hearing on the part of any party may prejudice such party's rights and result in an adverse determination on this matter. Failure to appear may result in the allegations of the order for hearing being taken as true.

Sandra S. Gardebring  
Executive Director

### Department of Public Welfare

#### Notice of Intent to Solicit Outside Opinion Amendments to Foster Care Rule

Notice is hereby given that the Minnesota Department of Public Welfare is considering proposed amendments to DPW Rule 204, Foster Care-Children. This rule governs the administration and provision of foster care services to children and their families by the local public social service

agency (the agency under the authority of the County Welfare Board or Human Service Board which is responsible for social services). The proposed changes revise and expand upon the responsibilities of the local agency in the delivery of foster care services. In addition, provisions from the new DPW Rule 1, which pertain to requirements of the agency, are added to this Rule.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Zetta Feder  
Division of Social Services  
Minnesota Department of Public Welfare  
4th Floor, Centennial Office Building  
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3250.

All statements of information and comment must be received by January 5, 1978. Any written material received by the Department shall become part of the hearing record.

### Teachers Retirement Association

#### Notice of Meeting

The Board of Trustees, Minnesota Teachers Retirement Association, will hold a meeting on Friday, December 16, 1977, at 9 A.M. in the office of the Association, 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, to consider matters which may properly come before the Board.

### Department of Transportation

#### Notice of Application and of Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for authority to retire and remove ICC track No. 9 located at Slayton, Minnesota

Notice is hereby given that the Chicago and North Western Transportation Company with Offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation

## OFFICIAL NOTICES

pursuant to Minn. Stat. § 219.741 (1976) (as amended) and § 218.041, subd. 3 (10) (1976) (as amended) to retire and remove ICC track No. 9 located at Slayton, Minnesota; said trackage being located on property owned by Slayton Grain and Supply Co., which firm has requested the track be removed.

The petition recites among other matters that: "The subject track is not used at the present time, and there is no present prospect that the subject track will be needed in the future."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before December 26, 1977. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Jim Harrington  
Commissioner of Transportation

## Department of Transportation

### Notice of Application and of Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for authority to retire and remove ICC track No. 285 and approximately 320 feet of ICC track No. 286 located in Rochester, Minnesota

Notice is hereby given that the Chicago and North Western Transportation Company with Offices at 4200 IDS Cen-

ter, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1976) (as amended) and § 218.041, subd. 3 (10) (1976) (as amended) to retire and remove ICC track No. 285 and approximately 320 feet of ICC track No. 286 located in Rochester, Minnesota.

The petition recites among other matters that: "The subject tracks are no longer needed for rail transportation service, and constitute a continuing and burdensome maintenance expense. The tracks are not used at the present time, and there is no present prospect that the subject tracks will be needed in the future. No shippers are located along this trackage. The trackage is bordered by property owned by the City of Rochester, which is requesting . . . (this action) to allow for power plant expansion."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before December 26, 1977. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Jim Harrington  
Commissioner of Transportation

## Department of Transportation

### Notice of Application and of Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for authority to retire and remove ICC track No. 56 located at Hayfield, Minnesota

## OFFICIAL NOTICES

Notice is hereby given that the Chicago and North Western Transportation Company with Offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1976) (as amended) and § 218.04, subd. 3 (10) (1976) (as amended) to retire and remove ICC track No. 56 located at Hayfield, Minnesota; which trackage serves Farmers Co-op Oil Association, John Deere Dealer, and Na-Churs Plant Food Company.

The petition recites among other matters that: "The subject track is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before December 26, 1977. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Jim Harrington  
Commissioner of Transportation

## Department of Transportation

### Notice of Application and of Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for authority to retire and remove ICC track No. 411 located at Winona, Minnesota and of Opportunity for Hearing

Notice is hereby given that the Chicago and North Western Transportation Company with Offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1976) (as amended) and § 218.041, subd. 3 (10) (1976) (as amended) to retire and remove ICC track No. 411 located at Winona, Minnesota; which trackage serves Standard Oil Company, Front and Kansas Streets, Winona, Minnesota. The petition recites among other matters that: "The subject track is no longer needed for rail transportation service and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before December 26, 1977. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Jim Harrington  
Commissioner of Transportation

## Erratum

1. Material from the Soil and Water Conservation Board, originally published at *State Register*, Volume 2, Issue 19, p. 970, was incorrectly categorized and printed as adopted Rules. The material should have been categorized as Proposed Temporary Rules, pursuant to Minn. Stat. § 15.0412, subd. 5, and as proposed temporary rules, should have been printed in the Proposed Rules section of the issue.

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